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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re Marriage of AZNIV MEGUERIAN
and ARA HUNANYAN.

B252475

AZNIV MEGUERIAN,

(Los Angeles County
Super. Ct. No. LD046786)

Respondent,

v.

ARA HUNANYAN,

Appellant.

APPEAL from orders of the Superior Court of Los Angeles County.
Michael Convey, Judge. Affirmed in part and reversed in part.

Ara Hunanyan, in pro. per., for Appellant.

Law Offices of Rosenthal & Associates and Lisa F. Rosenthal for Respondent.

This appeal was filed from a pending marital dissolution action. The family law court denied husband's pro se motion to substitute an unnamed representative in place of former wife, who recently died. By the same order, the court denied husband's motion to expunge a lis pendens which had been recorded by wife's counsel at the outset of the action. We affirm the family law court's orders in part and reverse in part.

FACTS

Azniv Ann Meguerian (wife) and Ara Hunanyan (husband) married in 2000 and separated in January 2006. Meguerian then filed a petition to dissolve the marriage and divide the marital assets, including real properties located on Sherman Way in Van Nuys, Gault Street in Van Nuys, and Tenth Street in Long Beach. Attorney Lisa Rosenthal represented Meguerian; she recorded lis pendens as to each of the three properties. In June 2010, the family law court entered a status only judgment. In December 2012, before trial on the remaining issue of the division of the marital assets, Meguerian died.

In June 2013, the probate court in a separate case (L.A. Super. Ct., No. LP017183) issued letters of administration to allow Meguerian's children and heirs to administer her estate, including the authority to "sell or exchange real property."

Hunanyan was self represented. In August 2013, he filed an ex parte application in the family law case for an order shortening time for a motion for substitution of a new party representative in place of Meguerian, and to expunge the lis pendens recorded on the Long Beach property.¹ The family law court set a hearing on the matters for September 9, 2013.

¹ Hunanyan's moving papers suggest he was complaining to the family law court that it was taking too long to resolve the family law matters after Meguerian's death. Hunanyan apparently wanted the family law court to substitute someone (not named) immediately to take over for the deceased Meguerian in the family law case, so that the trial of the division of assets could go forward without having to await any further action in the probate court proceedings. For a general discussion of the subject of substituting of a new party in a family law proceeding upon the death of a party, see California Practice Guide: Family Law (Rutter 2014) Commencing the Proceedings, § 3:20.1, p. 3-11. (See also Code Civ. Proc., § 377.31 [*"On motion* after the death of a person who

At the hearing on September 9, 2013, the family law court heard from attorney Rosenthal, who, as noted above, had represented Meguerian before she died. Rosenthal stated that she would be continuing as counsel for Meguerian's estate, acting through the estate's representatives. Rosenthal represented that the probate court had recently issued letters of administration to the representatives of the estate. Rosenthal offered that a substitution of attorney form would be submitted if the court so desired. The court inquired of Hunanyan, asking him what he wanted in light of Rosenthal's comments. At the close of the hearing, the court entered an order denying Hunanyan's motion to substitute a representative into the current family law case. Based on the record before us, we understand the court to have accepted attorney Rosenthal's statements that there may have been some notice problems with service of Hunanyan's papers, that Rosenthal had been attorney of record for Meguerian before she died, that Rosenthal would be continuing as attorney of record for the estate, and that Rosenthal would take care of the substitution issue. In short, the record shows that the substitution of party and substitution of attorney problems, if any, essentially would be handled informally and or clerically by attorney Rosenthal, making it unnecessary to deal with Hunanyan's motion for substitution. Further, the court denied the motion to expunge the lis pendens on the Long Beach real property upon making a finding that good cause remained for the lis pendens at that time. The court set a case management conference for October 15, 2013.

On October 24, 2013, the family law court signed and entered a formal order that incorporated the aforementioned rulings.

In November 2013, Hunanyan, still representing himself, filed a timely notice of appeal from the "order denying motion of substitution of deceased party and sub[stitution] of attorney."

commenced an action . . . , the court shall allow a pending action . . . to be continued by the decedent's personal representative"

DISCUSSION

I. Substitution

Hunanyan contends the family law court erred in denying his motion to substitute a new party representative in place of the now-deceased Meguerian. Hunanyan claims “there have been irregularities in court proceedings, [judicial] bias, elements of surprise by showing of evidence [for the] first time in the courtroom, errors in law, wrong rulings, ethical breaches by [the] opposing attorney, extrinsic fraud, [and] truncation of [his] state and federal due process rights . . . resulting in a complete and total miscarriage of justice.” We agree only that the family law court erred in not ruling on Hunanyan’s motion. The matter is remanded to the family law court to address whether substitution of a party is required at this time.

As we understand Hunanyan’s opening brief, he argues the family law court erred by entering an order which will allow Meguerian’s personal representatives to substitute into the family law case. It appears Hunanyan believes there is a question about the scope of the representatives’ authority under the letters of administration issued by the probate court. Further, Hunanyan appears to believe that attorney Rosenthal does not, or should not, have authority to represent the “opposing party” in the family law case. With respect to everything that has occurred in the family law court, Hunanyan claims he was denied a “fair trial” in that he was denied his due process right to present argument and evidence to the court, and because the court was biased against him. It is not altogether clear to our court what remedy Hunanyan seeks on appeal.

To begin, we reject Hunanyan’s claim of judicial bias. “[T]he mere fact a judicial officer rules against a party does not show bias.” (*In re Marriage of Tharp* (2010) 188 Cal.App.4th 1295, 1328.) Even assuming that the family law court in the current case erroneously ruled against Hunanyan, a claim which we discuss and reject below, a ruling against a party, even if erroneous, does not show bias. (See *McEwen v. Occidental Life Ins. Co.* (1916) 172 Cal. 6, 10-11.) Apart from this, we have reviewed the entire record on appeal, and we see nothing in the written materials in the appellant’s appendix, nor in the reporter’s transcript, having any tendency in reason to show that the family law court

was biased against Hunanyan. The record shows the family law court listened to Hunanyan, and there is nothing in the record to show disrespect or bias against him.

We reject Hunanyan's claim that he was denied due process for similar reasons. The record shows that the family law court granted Hunanyan a hearing on his motions, and listened to his contentions. The record shows that Hunanyan was given notice, time to prepare, and an opportunity to be heard. The record does not show a due process violation.

This brings us to Hunanyan's claim that the family law court erred in interpreting the letters of administration issued to the representatives of Meguerian's estate in the probate court. Hunanyan seems to argue that the letters do not support the issuance of the family court's order allowing the personal representatives of Meguerian's estate to be involved in the family law case. Hunanyan has failed, in our view, to show any such error. The fundamental problem with Hunanyan's position is that the family law court does not appear to have yet made an order on the substitution of party issue; it merely denied Hunanyan's motion for the *immediate* substitution of a new party in the family law case in place of his deceased former wife. It did so based on attorney Rosenthal's representations that she would clean up any matters concerning the substitution of the representatives into the family law case in place of the deceased Meguerian.² Given the record, the substitution issue remains unresolved. To the extent that Hunanyan has any objections concerning the propriety of the involvement of the representatives of Meguerian's estate in the family law case, or with attorney Rosenthal acting as counsel of record for the representatives, if and when there is an actual attempt to substitute them into the family law case, those objections may be raised by appropriate process in the family law court.

² At oral argument, attorney Rosenthal seemed to indicate that the substitution issue was resolved. By post-argument letter, we requested attorney Rosenthal to provide us with a court order concerning the substitution of party matter. She then provided us with a copy of the reporter's transcript of the hearing on September 9, 2013, which we had already reviewed as it was part of the record and did not assist us in resolving this issue.

The order denying Hunanyan's motion for substitution of a party in place of his deceased former wife is reversed. The matter is remanded for further proceedings, as may be appropriate, on the substitution of party issue.

II. Lis Pendens

To the extent that any of Hunanyan's claims may be construed to mount a challenge to the family law court's decision not to expunge the lis pendens against the Long Beach property, we find it meritless. First, his notice of appeal does not state that he was appealing from the court's order denying his motion to expunge. Second, an order granting or denying a motion to expunge a lis pendens is expressly made non-appealable by Code of Civil Procedure section 405.39. A petition for writ of mandate is the exclusive procedure for obtaining appellate review of an order on a lis pendens motion. (Code Civ. Proc., § 405.39; and see, e.g., *Woodridge Escondido Property Owners Assn. v. Nielsen* (2005) 130 Cal.App.4th 559, 577.) Finally, Hunanyan's arguments on appeal do not contain applicable references to the record or to supporting legal authority. Thus, he has not met his burden of showing error.

DISPOSITION

The family law court's orders of September 9, 2013, as incorporated in the formal written order dated October 24, 2013, are affirmed in part and reversed in part as stated in this opinion. The case is remanded to the family law court for further proceedings in accord with this opinion. Each party to bear its own costs on appeal.

BIGELOW, P.J.

We concur:

FLIER, J.

GRIMES, J.